



The Power of a Permanent Address.™

February 15, 2021

Via Email

regs.comments@federalreserve.gov

Re: Request for Comment regarding feedback on different approaches to modernizing the regulatory and supervisory framework for the Community Reinvestment Act (CRA); Docket No. R-1723 and RIN 7100-AF94

To Whom it May Concern:

CHN Housing Partners offers this letter in response to the Board of Governors of the Federal Reserve System's solicitation for comments regarding modernizing the Board's Community Reinvestment Act regulatory and supervisory framework. CHN would like to recognize the leadership of the Board of Governors of the Federal Reserve and their dedication to serving low to moderate-income communities and households through the Community Reinvestment Act.

CHN Housing Partners (CHN) is a 501(c)(3) nonprofit organization based in Cleveland, Ohio. Founded in 1981, CHN focuses on the power of a permanent address, working to secure and maintain housing stability and homeownership opportunities for the families we serve. Annually, CHN serves approximately 40,000 individuals and families. Since 1981, CHN has developed 6,500 homes, owns or manages 2,200 units and has helped 2,700 families become homeowners.

In 2019, CHN Housing Partners established a lending affiliate, CHN Housing Capital. The development of CHN Housing Capital was in response to deficit of traditional home financing available to LMI families, homebuyers of color and homebuyers with imperfect credit in Cuyahoga County.

The Community Reinvestment Act is an incredibly important law that drives investment into the communities that banks serve. CHN is thankful for the thoughtful, pragmatic approach and process that the Board has taken with this ANPR. It is clear that the Board is truly trying to modernize CRA to meet the current needs in the community and the changes in the banking industry over the decades since CRA was first signed into law. Our comments that follow provide our perspective on a number of the questions within the ANPR and combine our strong expertise in community development as a practitioner, our policy recommendations as a thought leader, and the experience of our staff members who are former community development bankers at large regional banks.

Question 38: Should the Board provide CRA credit only for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate) in CRA examinations? Alternatively, should the Board continue to value home mortgage loan purchased on par with loan originations but impose an additional level of review to discourage loan churning.

CHN Answer: Yes, CHN agrees that the Board should only provide CRA credit for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate) in CRA examinations. Additionally, CHN recommends that the Board provide pass-through CRA retail test credit to a bank that provides capital to a non-profit or CDFI lender that uses the capital to make small business and HMDA loans.

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CHN's affiliate, CHN Housing Capital, is a 501(c)(3) non-profit mortgage lender that focuses on providing home mortgage loans to those who lack access to capital, particularly, communities of color, low-income families and those with imperfect credit as currently defined. A core component of our capitalization strategy for first mortgages is to enter into correspondent agreements with CRA motivated banks to purchase the loans that CHN HC originates. A core component of our capitalization strategy for home repair lending is to originate, season, and sell the portfolio to CRA motivated banks. This will provide an incentive for more banks to undertake these activities; thereby, creating greater liquidity in the first mortgage and home repair markets.

A more impactful change for creating liquidity in the first mortgage and home repair markets would be to allow banks to receive pass-through CRA credit for the loans originated by non-profit and CDFI lenders but kept on the balance sheet of those lenders. For example, if CHN Housing Capital were to originate 50 HMDA loans and sell each of them to the bank, the bank would get CRA credit for those 50 HMDA loans. However, if the same bank were to provide long-term enterprise level capital that provides CHN Housing Capital the capital to originate the same 50 HMDA loans and CHN Housing Capital maintains those loans on its balance sheet, the bank would not get HMDA credit, but instead, credit for community development lending or equity. By allowing for pass through credit, the Board would significantly increase the liquidity available to non-profit lenders, such as CHN Housing Capital, for mortgage lending to those who are, in large part, left out of the mortgage market.

Question 42: Should the Board combine community development loans and investments under one subtest? Would the proposed approach provide incentives for stronger and more effective community development financing?

CHN Answer: No, the Board should not combine community development loans and investments under one subtest but should allow for long terms loans to be counted for as long as they remain on the balance sheet.

CHN Housing Partners develops, owns and manages LIHTC developments in a four-state footprint, including Ohio, Michigan, New York and Pennsylvania. As noted previously in our comments, our affiliate, CHN Housing Capital, is a 501(c)(3) nonprofit home mortgage lender. Additionally, a number of CHN's staff, including its Executive Director and Board President, are former bankers responsible for CRA activities of a large regional bank based in Ohio. By combining the tests, it will have a harmful effect on the availability of capital, including LIHTC equity. LIHTC is the single largest source of affordable housing development and preservation funds in the country. Although incredibly stable investments, pricing (proxy for total equity raised) and amount of LIHTC investment are most often dictated by bank CRA need. If permitted to fulfill CRA requirements through more profitable, short term lending capital, banks will most likely choose that vehicle to meet their CRA community development test obligations. Additionally, it will likely affect the total equity generated by LIHTC investment because the banks will have less incentive to compete for investment in CHN's LIHTC projects – reducing the total investment made in the preservation and development of affordable housing.

Although CHN strongly disagrees with the concept of combining the tests, CHN strongly agrees that the Board should allow banks to claim credit for remaining loan balances on its balance sheet, in a similar manner to the way that it can count remaining investment balances. This will incentivize banks to provide much needed patient capital to affordable housing providers and non-profit and CDFI lenders. Further, LIHTC is shown to have an investment grade level of risk, so if this rule change were to increase the level of permanent financing available for LIHTC projects through banks, this would create additional liquidity within the LIHTC debt market outside of the cumbersome and expensive agency debt alternative.

Question 43: For large retail banks, should the Board use the ratio of dollars of community development financing activities to deposits to measure its level of community development financing activity relative to its capacity to lend and investment within an investment area?

CHN Answer: **Yes, the Board should use the ratio of dollars as described.**

Question 46: How should thresholds for the community development financing metric be calibrated to local conditions?

CHN Answer: **The Board should use thresholds that provide specific expectations for activities to meet satisfactory and outstanding ratings within an assessment area. CHN does not have specific feedback on how to determine the appropriate thresholds.**

Question 47: Should the Board use impact scores for qualitative considerations in the Community Development Financing Subtest? What supplementary metrics would help examiners evaluate the impact and responsiveness of community development financing activities?

CHN Answer: **Yes, the Board should use impact scores for qualitative considerations.** All community development financing is important, but the Board is correct to identify that some capital may be more impactful than others. In evaluating qualitative considerations, the Board could look for items such as innovation in the local market, willingness to take a lead position to drive the financing of a community development intervention, whether the capital is patient and flexible to meet a specific need and if it increases equity in the community. For example, we are working with several banks to bring together a large-scale loan fund to address lead poisoning issues in Cuyahoga County. We are deploying the capital in small dollar loans to landlords through our affiliate, CHN Housing Capital, to allow for them to undertake interim controls to address this community need and to help landlords comply with the recent legislation mandating compliance with a lead safe standard in rental housing. As far as we are aware, the fund is a first of its kind in structure and scale. We are addressing a public health crisis with a housing solution and three banks are providing critical, patient 10-year capital. They have helped us to structure the fund and have worked closely with us to find the financial solution that will best fit within their toolbox. This is a great example of what we think would be appropriate for a multiplier.

Question 51: Should financial literacy and housing counseling activities without regard to income levels be eligible for CRA credit?

CHN Comment: **If expanded to include all income levels, the Board should require that the support primarily focus on low to moderate income individuals and areas.** There is a strong argument for banks to get credit for providing financial literacy and housing counseling more broadly than to LMI people and in LMI areas. Overall, CHN believes it would be additive to the community to expand the availability of these services, with the examples used by the Board of supporting seniors or children with financial literacy training compelling, but the Board should keep the proper incentives in place to ensure the continued funding and support of financial literacy training and housing counseling by the country's network of financial and housing counseling agencies. Available funding and support do not adequately pay for the necessary services today, so anything that would potentially deteriorate that support should be considered carefully.

Question 52: Should the Board include CRA consideration subsidized affordable housing, unsubsidized affordable housing, and housing with explicit pledges or other mechanisms to retain affordability in the definition of affordable housing? How should unsubsidized affordable housing be defined?

CHN Comment: Yes, the Board should include CRA consideration for subsidized affordable housing, unsubsidized affordable housing and housing with explicit pledges or other mechanisms to retain affordability in the definition of affordable housing.

The Board is right to consider this question thoroughly. In locations like Cleveland, Ohio or Detroit, Michigan, and their surrounding counties, our two primary markets, a significant amount of the “affordable” housing is unsubsidized or naturally affordable. CHN recently had this same discussion with a group of banks as we were creating a loan fund that addresses the threat of lead poisoning in the City of Cleveland in both subsidized and unsubsidized units, and the banks were thinking through the best approach to CRA qualification.

The City of Cleveland has over 100,000 units of rental housing that were developed before 1978, most of which are located in 1–4-unit buildings. Cleveland has one of the highest concentrations of poverty overall and for children in the country, yet most of those units are unsubsidized. Additionally, most of these units are owned by small mom and pop landlords who live in the neighborhood and, oftentimes, they themselves can qualify as low income. Overall, the asset quality of this housing stock has deteriorated and needs significant reinvestment. Providing the flexibility in the definition of affordable housing to help address issues such as this is critically important within communities like Cleveland, Detroit and other similarly situated legacy cities.

Unsubsidized affordable housing should be defined as housing, the housing payment for which, is affordable to those who are 80% AMI or lower. The housing payment for rental should be defined as the monthly rent, and for homeownership, housing payment should be defined as the monthly principal, interest, taxes and insurance. It should not be limited to an LMI individual living in the unit or property, but to affordability to the market overall. This will help to ensure there is affordable housing not just in areas that have a high concentration of poverty, but also middle neighborhoods and higher opportunity areas.

If a lender provides a loan to an affordable housing sponsor of rental housing, for-profit or non-profit, it is perfectly reasonable for the lender to require the affordable housing sponsor to covenant to retain the affordability of units over a pre-determined time. These covenants are present in a number of the largest non-LIHTC affordable housing preservation funds in the country. Rent restrictions are easy to monitor and could be reflected through certified rental rolls of an owner of rental housing. A lender could also require affordability of for-sale housing at the time of purchase. Purchase prices and the proposed mortgage packages for for-sale housing are also easy to monitor and could be used as evidence of affordability. For for-sale housing, monitoring after the purchase would be difficult and specific affordability restrictions would reduce the ability of a family to capitalize on the equity of their home, which is one of the primary drivers of financial mobility in our country.

CHN is glad to see affordable housing given both the rental and ownership focus in this request for comments. In Cleveland, OH, it is often cheaper to buy a home than to rent a home, so providing this specific focus on ownership within the rules and, perhaps, giving an impact preference to it, will help to incentivize banks to further fund homeownership. Since the financial crisis in 2009, banks have been very hesitant to fund scaled homeownership efforts. This has had a direct impact on the reduction of homeownership rates in places such as Cleveland and Detroit, though a contributing, not primary, factor.

Question 53: What data and calculations should the Board use to determine rental affordability? How should the Board determine affordability for single family developments by for-profit entities?

CHN Comment: The Board should use evidence of rental restrictions and commonly used calculations such as housing cost to determine affordability. The Board should not use a

different standard for affordability for single family developments for for-profits vs. non-profits.

The Board has several options for evidencing affordability. One way to ensure affordability is for banks providing capital to require within their financing documents that the project sponsor maintain affordability. Another way to ensure affordability is to utilize rent restrictions on title to the property. In either case, the project sponsor would agree to restrict rents to affordable rents for a period of years. This would be easily monitored through certified rent rolls provided by the project sponsor. Affordability could be set as the housing cost being no more than 30% of 80% of the area median income.

The Board should not set a different standard for qualification for single family developments between non-profit and for-profit entities. Presumably, this distinction is being used as a proxy of higher vs. lower cost housing. The cost to develop new single-family homes or preserve existing ones is relatively the same between non-profits and for-profits. If a home is not affordable when a for-profit develops it, the home will not be affordable when a non-profit develops it. If a sponsor is developing housing that is not affordable to people under 80% AMI, the Board should consider whether it applies under the revitalization and stabilization standard as opposed to affordable housing.

Question 54: Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs? If so, which activities?

CHN Comment: Yes, the Board should specify certain activities that could be viewed as particularly responsive to affordable housing needs.

A representative list, which is not intended to be exclusive, includes: All the subsidized categories that the Board identified in the request for comments, investment in non-tax credit affordable housing preservation funds, long term patient capital (equity, debt or equity like facilities such as EQ2s) for single family new construction, preservation or repair.

Question 55: Should the Board change how it currently provides pro rata consideration for unsubsidized and subsidized affordable housing? Should standards be different for subsidized versus unsubsidized affordable housing?

CHN Comment: Yes, the Board should change how it currently provides pro rata consideration for unsubsidized and subsidized affordable housing in some cases.

In cities such as Cleveland, Ohio, overall monthly rent rates are relatively low for both market and affordable rents. The upside of market rents is not high enough to subsidize a development with prescribed affordable rents, so when organizations try to develop a mixed income building, the proforma is unfeasible without significant public subsidy. In areas such as Cleveland, it would make sense for a bank to get more than pro rata consideration, especially if the bank provided lower cost, patient capital to reduce the need for subsidy to fill the project gaps.

Question 56: How should the Board determine whether a community services activity is targeted to low- or moderate-income individuals? Should a geographic proxy be considered for all community services or should there be additional criteria? Could other proxies be used?

CHN Comment: The Board should maintain its geographic proxy test but should allow for services in middle- or high-income areas that address poverty and community needs to be counted.

Question 60: Should the Board codify the types of activities that will be considered to help attract and retain existing and new residents and businesses? How should the Board ensure that these activities benefit LMI individuals and communities, as well as other underserved communities?

CHN Comment: **The Board should provide a non-exclusive list of presumed qualifying activities and for those that are not on the list, interview local stakeholders to confirm qualification.**

Revitalization and stabilization activities are an important part of the community development ecosystem within our communities. They should be given priority, and many would not be financed without the incentives created by compliance with the CRA. Currently, because of uncertainty around these activities, banks will often take the easier route of focusing on specifically qualifying affordable housing activities.

The Board is missing an important geographic lens when considering revitalization and stabilization. There is a group of neighborhoods nationally often called “Middle Neighborhoods”. Please see middleneighborhoods.org. They are neighborhoods on the edge of growth and decline, and without continued reinvestment they can de-stabilize. Many middle neighborhoods may not qualify as LMI census tracts, but at the same time, they also do not have a fully functioning market, so they are not attracting market driven capital. Without the market or regulatory incentive, these neighborhoods often struggle and can decline further. The proper approach would be to incentivize interventions before these neighborhoods slipped into heavier concentrations of poverty and experienced further disinvestment. There is precedent for the Board extending its CRA approach to include non-metropolitan middle neighborhoods, and CHN strongly recommends extending revitalization and stabilization to include Metropolitan “Middle Neighborhoods” as well. The Middle Neighborhoods community of practice, as identified on the website cited above, can help put controls and definition around those neighborhoods in urban areas that should qualify, but also see: <http://middleneighborhoods.org/2020/10/29/defining-middle-neighborhoods-a-map-based-tool/>

CHN appreciates the concern but disagrees with the approach advocated by a limited number of stakeholders and adopted in the OCC guidance that would limit the ability of banks to receive CRA credit for lending to or supporting the development of homes for middle- to upper-income individuals who are moving into a LMI area. If we are truly seeking mixed income neighborhoods for all of the community and the economic benefits they create, why would we say we only want middle income neighborhoods if LMI people are moving into middle- to upper-income neighborhoods, but not middle- to upper-income people moving into LMI neighborhoods?

Question 61: What standards should the Board consider to define “essential community needs” and “essential community infrastructure,” and should these standards be the same across all targeted geographies?

CHN Comment: **CHN does not think that standards should be the same across all targeted geographies because of the unique needs in the local market. Additionally, CHN disagrees with expanding eligible activities to include large scale infrastructure projects.**

CHN disagrees with expanding eligible activities to include large scale infrastructure projects because it believes that it will reduce the willingness of banks to consider more difficult projects and will reduce the overall availability of capital for larger scale, less risky investments that will likely be backed by the creditworthiness of government entities or utilities.

Question 63: What types of activities should require association with a federal, state, local or tribal government plan to demonstrate eligibility for the revitalization or stabilization of an area? What standards should apply for activities not requiring association with a federal, state, local, or tribal government plan?

CHN Comment: **CHN does not believe that a government plan should be the final determining factor as to whether something qualifies as an eligible act. The Board should also consider support from local organizations such as community development corporations who focus on the community development within a defined geographic area.**

Question 67: Should banks receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country?

CHN Comment: **No, a bank should not receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the county, but it should receive automatic CRA credit for providing loans, investments, or services within its assessment areas.**

CHN strongly agrees with providing automatic CRA credit to a bank who invest in CDFIs that are operating in their assessment areas. However, if a bank gets CRA credit for simply providing capital to large, nationwide CDFIs, it will have the unintended consequence of concentrating bank investment in those few large, national CDFIs and reduce the amount of capital to organizations such as CHN Housing Capital that are smaller in scale and have a targeted approach to helping provide mortgages to those in Cuyahoga County who are left out of the market, particularly, communities of color, low-income households and those with imperfect credit. Many of those large CDFIs have bond ratings or equivalents and, although they may be a gold standard for community development finance and we consider many to be close colleagues, this would very likely have a limiting effect on investment in local CDFIs.

Additionally, we agree with the Board's thoughts on qualifying CDFI Fund certified community development banks as CRA eligible similarly to certified CDFIs. CHN's lending affiliate, CHN Housing Capital, is in the process of becoming certified though currently is not. CHN HC has made almost 700 loans to low-income families to help them become homeowners after the mortgage market collapse in and following the Great Recession. All of those loans have been under \$25,000. Investment in CHN Housing Capital should certainly have an easy path to CRA credit for banks who lend to or invest in it even though it is not currently a certified CDFI.

Question 68: Will the approach of considering activities in "eligible states and territories" and "eligible regions" provide greater certainty and clarity regarding the consideration of activities outside of assessment areas, while maintaining an emphasis on activities within assessment areas via the community development financing metric.

CHN Comment: **Yes, this approach would reduce uncertainty, but will likely have the unintended consequence of reducing capital available to the places that need it most.**

Much has changed in the world and the banking industry since the CRA was first implemented. However, although a significant portion of the population may engage in online banking activities and/or utilize branch services significantly less, one fact remains the same - the deposits and banking activities came from a person or business in a specific geographic location. Just because many banks have elected to become regional, super-regional or national, or maybe even they primarily take deposits online because they do not have brick and mortar branches, our communities still need access to critical capital, and to weaken or remove the requirement that the bank reinvest in the communities from which they generated their assets would do a disservice to the people and business that the banks serve.

Using Ohio as an example, KeyBank is headquartered in Cleveland, Huntington National Bank in Columbus, and Fifth Third in Cincinnati. They are all regional banks who each have billions of deposits in Ohio. Their footprints overlap significantly. Additionally, there are several additional regional and national banks that have a significant presence in Ohio. However, cities such as

Cleveland, Toledo, and Youngstown, and areas such as Athens County in Ohio's Appalachian region, have a significant lack of capital available to its residents and businesses. This is even though the current CRA system provides every incentive for a bank to make qualified CRA investments and loans in those areas.

Much of the bank feedback that we have heard on this topic centers on hyper competitive CRA markets such as New York, California and places like Salt Lake City, Utah. The Board should not change its approach in response to those examples because of concern from banks who made conscious decisions to concentrate their services in those markets. More often, the question is not whether there are qualified investment and lending opportunities available, but instead whether the bank is willing to work with the community to make investments and develop loan products responsive to the community needs beyond easier executions such as LIHTC investment and lending. If we reduce the requirements or incentives by providing for too permissive of an approach for regional investment, it will reduce bank activities in areas that most need it within their assessment areas. Many LIHTC tax credit syndicators, particularly those in competitive markets such as the Mountain West and Florida, for example, have built regional funds to provide that easier execution for banks who, rather than pursuing opportunities within their local markets, are able to utilize the regional funds as a proxy for direct investment in their assessment areas.

Question 69: Should the Board expand the geographic areas for community development activities to include designated areas of need? Should activities within designated areas of need that are in a bank's assessment area(s) or eligible states and territories be considered particularly responsive?

CHN Comment: The Board should not expand the geographic areas for community development activities to include designated areas of need. However, if it does, an investment within the designated areas of need within a bank's assessment area(s) only should be considered particularly responsive.

To permit a bank to make national investments or investments in areas wholly unrelated to where they derive their business would have a significant impact on the availability of capital in cities such as Cleveland that have high concentrations of poverty and need the investment. Most often, the issue is not whether there are opportunities for a bank to invest in its assessment area, but a matter of prioritization and engagement.

Question 71: Would an illustrative, but non-exhaustive, list of CRA eligible activities provide greater clarity on activities that count for CRA purposes? How should such a list be developed and published, and how frequently should it be amended?

CHN Comment: Creating certainty as to whether an activity qualifies as a CRA eligible activity will help to increase investment in our communities.

The list of presumed eligible activities should be non-exhaustive and presumed to be eligible. For those activities that are suggested, but not included, the Board should not take a position that they are presumed to not qualify and should include language within its guidance that is clear of this presumption. The Board could do a formal request for comment on CRA eligible activities or, less formally, utilize its community development personnel at the various regional Federal Reserves to solicit feedback.

The refresh of the list of presumed qualifying activities could be every three years. If the Board were to decide to remove an activity presumed to be qualifying, it should provide a future effective date for such a change to avoid disruption of those activities currently under development.

Question 72: Should a pre-approval process for community development activities focus on specific proposed transactions, or on more general categories of eligible activities? If more specific, what information should be provided about the transactions?

CHN Comment: **Yes, there should be a pre-approval process and that process should be available to both banks as well as community stakeholders undertaking a specific activity.**

Democratizing the understanding of what is or is not CRA eligible will help community stakeholders to hold banks accountable who otherwise may say that something is not, or it is unclear whether something is CRA eligible. Allowing an organization such as CHN Housing Partners to confirm that an activity is CRA eligible, if not on a list of prescribed eligible activities, would help us to attract capital for a project for which banks may question CRA eligibility. The Board could require a similar level of scrutiny for such requests as it otherwise requires of banks when reviewing the qualification of activities after the fact.

We consider it a privilege to provide our comments during this feedback period, and we thank the Board of Governors of the Federal Reserve for their commitment to LMI communities and thoughtfulness in crafting policies to serve these communities.

Sincerely,

A handwritten signature in black ink, appearing to read "K.J. Nowak". The signature is fluid and cursive, written in a professional style.

Kevin J. Nowak
Executive Director
CHN Housing Partners